IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

Crl.MC.No. 307 of 2007()

CRMP.229/2007 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM
CRIME NO.419 OF 2006 OF HARBOUR POLICE STATION, ERNAKULAM

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PETITIONER: CLAIM PETITIONER

R.ARUMUGHAN, AGED 36 YEARS,
S/O.RAMAN, PULICKAL HOUSE, MARUTHA P.O.,
VAZHIKADAVU, MALAPPURAM DISTRICT.

BY ADV. SRI.M.J.SANTHOSH

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA, REPRESENTED
BY THE S.I. OF POLICE, HARBOUR POLICE STATION,
ERNAKULAM, (CRIME NO.419/2006) THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.307 of 2007

Dated this the 15th day of February, 2007

ORDER

The petitioner is the owner of a vehicle. That vehicle was allegedly used by the driver and cleaner of the petitioner's vehicle to convey stolen property. The vehicle was seized by the police. The petitioner applied before the learned Magistrate for release of the vehicle. By order dated 20.01.2007, a copy of which is produced as Annexure-I, the said petition was allowed subject to conditions. It was directed that the petitioner must produce documents to show ownership of the vehicle. It was further directed that the petitioner must execute a bond for Rs.2 lakhs with two solvent sureties each for the like sum. Thirdly it was directed that the petitioner must make a cash deposit of Rs.50,000/- in addition to the bond to be executed or produce bank guarantee for the said amount of Rs.50,000/-. The petitioner is aggrieved by the third condition. The learned counsel for the petitioner submits that the petitioner, even allegedly, has no role in the commission of the theft or the removal of the stolen property. The petitioner is, without dispute, the owner of the vehicle. There is no other claimant for the vehicle. In these circumstances, the condition that the petitioner must deposit an amount of Rs.50,000/-, or in the alternative, furnish bank guarantee is unnecessarily onerous

and unjust. Because of this condition imposed, the petitioner is not able to get back the vehicle and the vehicle is unnecessarily exposed to sun and rain. In these circumstances, it is prayed that the said condition may be deleted.

2. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor does not raise any serious objection. I am unable to find any specific circumstances which would justify the imposition of such a harsh and onerous condition on the petitioner when there is no allegation even that the petitioner was involved in any manner in the commission of the theft or the removal of the stolen property. The conditions, that the petitioner must make all the documents available for perusal of the court and that a bond for Rs.2 lakhs must be executed, are, according to me, sufficient and satisfactory conditions in the facts and circumstances of this case.

3. This Crl.M.C is, in these circumstances, allowed. The said condition, enumerated as condition No.2 in Annexure-I order that the petitioner must furnish a cash security or bank guarantee for Rs.50,000/- is hereby set aside.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-